

IN THE COURT OF COMMON PLEAS  
FOR HAMILTON COUNTY, OHIO

STATE OF OHIO, PLAINTIFF

RE:

-vs-

LOUIS MERRIWEATER, DEFENDANT:

JURISDICTIONAL QUESTION

Case No. B-9702196

Judge Robert S. Kraft

MOTION FOR EVIDENTIARY HEARING  
PURSUANT TO R.C. §2953.22

[P]etition to vacate and set a-side the judgment of conviction and sentence as being void under the Ohio Constitution and the United States Constitution for lack of statutory subject matter jurisdiction, pursuant to R.C.'s §2953.21(B)(2), §2937.02, §2935.09, §2935.17(B) and Criminal Rule(3).

STATE OF OHIO  
ROSS COUNTY

VERIFIED PETITION

Now comes Petitioner Louis Merriweather, in pro se and petitions this honorable court for post-conviction relief pursuant to R.C. §2953.21 and the reason for this petition are, there were such denials and infringements of the Petitioner's rights in his State trial conviction, as to render all of the pre-trial proceedings and the judgment of his conviction void under both the Ohio Constitution Art. 1, Section 10, and the United States Constitution, 14th Amendment.

FILED  
COURT OF APPEALS

SEP - 9 2003

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

Respectfully Submitted,

*Louis Merriweather*  
Louis Merriweather, #348-451, In Pro Se  
P.O. Box 5500  
Chillicothe, Ohio 45601-0990



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A

AFFIDAVIT OF VERITY

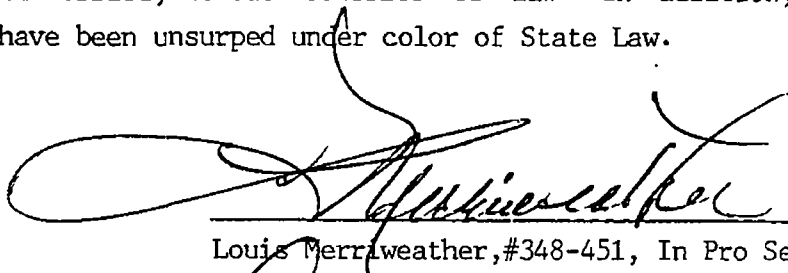
STATE OF OHIO

ROSS COUNTY SS:

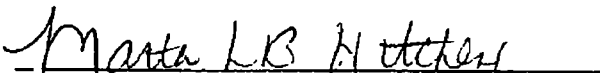
I Petitioner, Louis Merreather, being duly sworn in according with the law, do hereby state that I have never been served with an original State seal process from any Ohio court of records, and that I was never formally accused in according to the laws of the state of Ohio, and that no person has asserted a claim of right for any injury done them in violation of the statutory criminal laws of the State Ohio.

Further, that my trial, conviction and sentence are void as a matter of State law, and that I was not afforded the due process of the laws in Ohio, but, prosecuted under a common law statute by virtue of office, without benefits of law. In addition, my rights, privileges and immunities have been usurped under color of State Law.

Further Affiant saying naught.

  
Louis Merriweather, #348-451, In Pro Se

Sworn to and subscribed before me this 29th day of Aug, 2003.

  
NOTARY PUBLIC

Marta L. B. Hitchens  
Notary, State of Ohio  
License No. 5239  
Commission Expires 3/3/2004

**STATEMENT OF FACTS:**

(1) On March 27,1997,in Hamilton county,city of Cincinnati,the Cincinnati police came to 1535 Pleasant St,and detained Petitioner of his liberty ,then arrested,and charged Petitioner with rape,then on April 2,1997,the Hamilton county grand jury and the Hamilton county prosecutor's office,returned an indictment charging Petitioner with four(4) counts of Rape[§2907.02,(A)(1)(b)]cunnilingus,with specification as a sexually violent predator.

(2) On May 15,1997,defense counsel induced Petitioner while under several prescribed psychotropic medication,and without benefit of discovery to pleas guilty to all counts of the indictment.

(3) Petitioner was represented throughtout trial proceeding by court appointed counsel of record who possessed a conflict of interest.

(4) On June 18,1997,in the court of common pleas in the court room of Judge Robert S.Kraft,in an alleged sentencing hearing ,Judge kraft allegedly accepted Petitioner's alleged voluntarily guilty pleas,and sentence Petitioner to the maximum sentence of 10 years,which violated Petitioner's due process protections.

(5)No court documenation,court records or sentencing transcript had been produced by either the trial court,clerk of courts and the 1st Appellate court and no items of discovery.

(6)No timely appeal was filed,because trial court nor defense counsel informed Petitioner in an oral direct manner of his right to a timely appeal of guilty plea agreements and sentencing in case#B-9702196.

(7) In absence of due process and in violation of Petitioner's rights under the Ohio Constitution,and Petitioner's fifth,sixth and 14th Amendmends rights to the United States Constitution in trial court case No.B-9702196,Petitioner was/is in voluntarily servitude to the State of Ohio and illegally restrained of his liberty and freedom.

(8) All charged under the common law statute, which by State law has been abrogated by the general assembly in 1960, pursuant to R.C.'s section(s) §2901.03(A-B), 2937.02, 2935.09, 2935.17(B) and Criminal Rule(3).

**JURISDICTIONAL FACTS:**

(9) This court have subject matter jurisdiction pursuant to R.C. §2953.21(A) and §2953.23(B)(2), to answer all questions of a State statutory constitutional violation on state law, that would render a judgment of conviction void under both the Ohio and U.S. Constitution. State v. Perry, 226 N.E.2d.104 at paragraph(4-5).

(10) Petitioner's Merriweather's states that in his petition for post-conviction relief, he is placing this court on notice of an error of law, and facts, that this trial court has made in convicting him on common law offenses, and by statutory law should be corrected, pursuant to Ohio law, Criminal Rule(s) 12(B)(2) and 52(B), because this court was without the authority to hear, decide, and lawfully sentence Petitioner under a common law statute, in doing so, this court has "error" and inflicted upon the Petitioner a manifest of injustice", as Petitioner was not accused or charged by the criminal statutory statutes of Ohio law, "which renders all of the proceedings held against him under common law void", State v. Dowell, 108 Ohio App.6.8.155 N.E.2d.482; Key v. Vattier, 1 Ohio 132; Wirm v. State, 10 Ohio 345; Allen v. State, 10 Ohio St.287; Smith v. State, 12 Ohio St.466; Mitchell v. State, 42 Ohio St.383; Johnson, v. State, 66 Ohio St.59 and State v. Mullins, 705 N.E.2d.709(1997), 111 S.ct.1693(1991), Hunter v. State of New Mexico, 916 F.2d.595 at paragraph(9).

**FIRST CLAIM FOR RELIEF:**

(11) Petitioner's conviction and sentence are void as he was denied due process rights under both the statutory due process of Article 1, Section 10. of the Ohio Constitution, and his 5th, 6th, and 14th amendments rights to the U.S. Constitution, at common pleas court [case No. B-9702196], grand jury proceedings, and the common pleas court's trial proceedings, in assuming statutory subject matter jurisdiction over common law statutes, charge within the complaint/indictment, and was not supported with any "criminal affidavit/complaints", and was not filed or properly executed in the manner of the statutory mandates of R.C.'s §2937.02, 2935.09, and 2935.17(B) and criminal Rule 3.

**STATEMENTS OF FACTS SUPPORTING THE CLAIM:**

Petitioner was arrested on March 27,1997,and charged by indictment on April 2,1997,in the Hamilton county common pleas court,upon request of the prosecutor's of Hamilton county,for violating a common law statute sexual offense.A nol grand jury,under case No.#B-9702196,without any public interest or any sufficient formal accusation by a person,citizen or police officer,on a criminal affidavit/complaint,on a sworn,filed,pre-indictment of a crime being committed in Hamilton county in any court of record,or with the Hamilton county prosecutor's attorney office,as mandated by the Ohio Legislatives in 1960 in the statutory criminal statutes of R.C.'s §2935.05,2935.09,2935.17(B) and Criminal Rule 3,see also,State v.Brown,442 N.E.2d.475;State v.Graig,(Mar.12,1986)App.No.C-85044,unreported;City of New Albany v.Dalton,661 N.E.2d.1132(Franklin Co.1995);State v.,Miller,47 App.3d.113-114.The Hamilton county common pleas court does not have jurisdiction over common law statutes,R.C.§2901.03(A),charged within a State indictment.111 S.CT.1693(1991).Id.

**O.R.C. §2901.03(A) MANDATES:**

- (1) NO conduct in the state of Ohio constitutes a criminal act,unless,it is a offense against the Revised Code:
- (2) Common law crimes has been abrogated by the general assembly pursuant to section(s)R.C.'s §2901.03(A),§2935.09,§2937.02,§2935.17(B) and Criminal R.3.

**O.R.C.'S §2937.02 AND §2935.09 MANDATES:**

- (1) These criminal statutory statutes places an affirmative duty on the trial court to follow certain procedures,"before accepting a plea of guilty or not guilty in felonies and misdemeanors"by passing R.C.'s§2937.02,2937.07,§2935.03,§2935.10,which became effectived also in 1960 along with O.R.C. §2901.03(A).The Ohio legislature has enumerated what standards shall the court incorporate in determining its lawfully statutory subject matter jurisdiction,and the citizens of the State of Ohio beleive that the rights contained in R.C.'s §2937.02,§2935.09,are fundamental,the rights contained within R.C.'s§2937.02,and §2935.09,are not only"statutory",but constitutional guarantees under Ohio's due course of law,and thus cannot be presume from a silent record that a court,"did"or did not"have statutory subject matter jurisdiction,because it would deprive the accuse of due course of law.

Amend.14th.Criminal Rule(55).In State v.Barnes,454 N.E.2d.572;the court of appeals held,"where the proceedings in the court granting change of venue are so irregular as to be wholly void,the court to which the case is taken aquires No jurisdiction at all,and the question may be raised at any time in the course of the proceedings in that court,or first time on appeal as stated infra,§1676:petitioner argue that,he cannot be charged,or found guilty of violating a"common law statute",in a prosector attorney indictment which is not a criminal violation of Ohio law,R.C.§2901.03(A),see Watson v.Jago,558 F2d.330-338(6th Cir.1977),in that case,the grand jury indictment charged Petitioner with deliberate and premeditated murder in the first degree,at trial Petitioner was forced to defend against a charge of felony murder,in holding,the,Petitioner due process were violated,the court stated"To enable the prosecution to seek a conviction on a charge not brought by the grand jury unquestionably constitutes a denial of due process,by not giving Petitioner fair notice of the criminal charges to be brought against him;558 F.2d.at 334-339,see also Koontz v.Glossa,the court of appeals affirmed the granting of a writ of habeas corpus,"because the charging instrument alleging the crime cited the wrong state statute",the statute under which the prosecution proceeded was substantively different,the court found a due process violation,because the Petitioner in that case had not been given sufficient notice of the charges against him.Huntv.State of N.M.,916 F.2d.595.In the Petition herein,the reflects that the Petitioner"was not charged at all under the statutory laws of the state of Ohio,but,was arrested,charged,indicted,convicted,and sentence to 10 years,for violating a common law statute,"in a prosecutor's constructive,amended indictment",to and from the Hamilton county grand jury".See State v.Mullins,805 N.E.2d.709(Warren 1997),that court held,that"the trial court's constructive amendment to the complaint,by convicting appellate of an offense with which he was never charged,amounts to a change in the name and identity of the crime charged",by substituting no charge and amending a charge,violates criminal Rule 7(D) because,under the common law statute in Ohio,the swearing of a complaint under oath was not required,however,the common law rule is embodied in R.C.§2935.17(A)(B),which provides that all affidavits and complaints forms,and under former procedure,an unsworn statement filed with a Judge,clerk or magistrate was a valid charging instrument,while prior law allowed for unsworn complaints,the Ohio Constitution then as now require sworn affidavits to support an arrest warrant.

State v. Palider, 1987 WL 6964, No. 1255 (9th Dist. Ct. App. Summit, 2-18-87), state v. Btretz, 1993 WL 334249, No. 92-P-0008 (11th Dist. Ct. App. Portage, 8-27-93). In state v. Robinette, 693 N.E.2d.305 (Jackson 1997), the court held, "[T]he basis of the complaint's function is to advise the defendant of the offense with which he is being charged, and to provide the basis for invoking the jurisdiction of the court". A hearing is required in the instant case based upon the substantive issues presented within claim number one(1) for relief, and the supporting documentation, [the docket sheet], and the files and records of the case does not negate the Petitioner's claim for relief, a hearing is required to afford the Petitioner an opportunity if necessary to further adduce evidence in support of this claim, futher, failure to hold an evidentiary hearing or void the judgment of conviction will constitute another error of law on this court", pursuant to R.C. §2953.21(E), because, when a Petitioner filed a petition for post-conviction relief under R.C. §2935.21, and alleges grounds for relief, and, the records of the original criminal prosecution does not fully rebut the allegations, the Petitioner is "entitled" to a evidentiary hearing or if the decision would void his conviction, "he is entitled to his release"; State v. Perry, 226 N.E.2d.104; State v. Williams, (1996) 8 Ohio App.2d.135, 220 N.E.2d.837; [T]he hearing is ordered in which the Petitioner is provided with opportunity to prove his allegations", because, the word "hearing" as used in R.C. §2935.21, means the hearing under paragraph (E) of R.C. §2953.21 and, means "the introduction of testimony or documents in addition to the records in the case"; State v. Johnson, (1971) 29 Ohio App.2d.219, 280 N.E.2d.393, because, when a trial court considers "only" the records in a case, as set out in paragraph (C) of R.C. §2953.21, "it is not" a hearing within the meaning of R.C. §2935.21 and R.C. §2953.22, Id.

#### SECOND CLAIM FOR RELIEF:

(12) Petitioner was denied his due process and his equal protection rights of the laws in his State prosecution in Hamilton county Ohio, under indictment number # B\_9702196, at the Hamilton county grand jury proceedings and the Hamilton county Common pleas court, not to be deprived of his life, liberty or his property without the statutory procedural due process of a fair hearing, and to not be unlawfully restrained of his liberty under the 14th amendment of the U.S. Constitution and his 4th, 5th, 6th, 8th, 13th,



and 14th amendment of the U.S. Constitution.

**STATEMENT OF THE FACTS SUPPORTING THE CLAIM:**

Petitioner was arrested, charged, convicted, and sentence unequally and purposefully classified and prosecuted "differently" from other individuals, when he was accused of violating a common law statute, which is not a crime in Hamilton county Ohio or any other county in the State of Ohio, the prosecuting attorney and One court, with the Hamilton county grand jury "arbitrarily" ignored their responsibility in Petitioner's case, as government agents of both the executive branch and the judicial branch, surprisingly they charged, and prosecuted Petitioner under the common law statute, "which is not criminal in the State of Ohio and, has been abrogated by the general assembly in 1960, pursuant to section, R.C. §2901.03(A). They also prosecuted Petitioner with "no" government or state interest, thereby violating the "separation of power clause", U.S. Const. Am. 14th. "which demands that no state shall deny any person within its jurisdiction the "equal protection of the laws"; see, Harper v. Virginia State Bd. of Elections, 383 U.S. 663-681, 86 S.Ct. 1079, 6 LEd(2d) 169 (1966), because, the Petitioner has a Liberty interest in the State of Ohio as a citizen guaranteed and enumerated in the Bill Of Rights, here, are nine cases cited and one attached, where Petitioner were charged under common law, and filed on the same jurisdictional questions as is the Petitioner, and were granted their due process and relief, and there are many more decisions as in these cases; State v. Bretiz, No. 92-P-0008; State v. Green, (1988), 48 O.App.3d. 121; State v. Zdovec, (1958) 106 O.App. 481,; South Euclid v. Samartini, (M.C. 1965); State v. Brown, 2 O.App.3d. 400 2 OBR 475, 442 N.E.2d. 475; State v. Graig, (Mar. 12, 1986) App. No. C-850444, unreported; City of New Albany v. Dalton, 104 O.App.3d. 307, 661 N.E.2d. 1132 (Franklin Co. 1995); State v. Miller, 47 O.App.3d. 113-114; State v. Brock, (O.App.3d. 1996) 675 N.E.2d. 18. The United States Supreme Court holds "[T]hat it is a violation of due process to convict a person on insufficient of the evidence of all the essential elements of the offenses, Jackson v. Virginia, (1979), 443 U.S. 307-316, and the law in Ohio is that jurisdiction "must" be established with the same degree of proof as the criminal conduct". Ohio Revised Code sections §2937.02, §2935.09, sets forth the provision that a criminal case "shall" be held in the court which has the "proper subject matter jurisdiction": Therefore, since Petitioner has been charged with criminal misconduct acts under Common law statute,



and not the statutory statutes of R.C.'s §2901.03(A), §2937.02, §2935.09 "not one of the elements of that crime was actually committed in Hamilton county, Ohio on March 267, 1997, in case at bar, the common law subsection which prosecuting made applicable in Petitioner case, does not establish that a crime was committed in itself, in a criminal action in the state of Ohio, under the common statute, 916 F2d. 595 at paragraph (9). Id., in light of this it appears that this honorable court has no choice but to void Petitioner common law conviction, for no other reason than it violates Petitioner equal protection rights to the laws in the state of Ohio, and immediately dismiss the common law action pursuant to R.C. §2935.21(E), or grant Petitioner a hearing as set out in paragraph (C-E) of R.C. §2935.21, for reasons that the prosecutor of Hamilton county or the courts, cannot prove "beyond a reasonable doubt" supported by the records of Petitioner's case, that he was not prosecuted under the common law statute";

### THIRD CLAIM FOR RELIEF:

(13) Petitioner conviction and sentence are void for reasons he was denied constructive, effective assistance of legal counsel; [T]he right to an impartial judge, and the right to a public trial, are a denial of Petitioner's 5th, 6th, and 14th amendments to the U.S. Constitution.

### STATEMENTS OF THE FACTS SUPPORTING THE CLAIM:

(A) [P]etitioner's trial attorney, the court, with prosecuting attorney's of Hamilton county, allowed Petitioner to be arrested, charged, indicted, and convicted without any "public interest" upon the request of the Hamilton county Prosecutor's office, who accused Petitioner of violating a common law statute, under case #B-9702196, and for reasons of the "fundamental defects involves, which resulted in a complete "miscarriage" of justice, but, for the constitutional errors, "no" reasonable jurors would have found Petitioner guilty of the underlying offense(s) in the counts within the indictment, for reasons that Petitioner is actually innocent of the alleged offense(s). See, *Murray v. Carrier*, 106 S.Ct. 2639, the Petitioner's conviction is "contrary" to clearly established U.S. Supreme court precedents, and, "involved an unreasonableness" of the Supreme court interpretation of the sixth amendment in *Strickland v. Washington*, 466 U.S. 688 (1984) "[T]rial counsel was ineffectived for failure to prevent the court from convicting Petitioner for a violation of a common law statute that is not a criminal,

violation in the State of Ohio. On an indictment that was not supported by the criminal complaints charging instruments, from a citizen, police officer, or state attorney. In the instant case, the Petitioner was denied the right to reasonable effectuated assistance of counsel, the right to an impartial judge, with the right to a public trial, and as such, is "contrary" to *Arizona v. Fulminate*, 499 U.S. 279, 310-311 (1991), the Petitioner's complete trial process was infected as a matter of law, the court is to take "judicial notice", and "must" take cognizance of the same and void the purported indictment, because it fails to state a criminal violation of R.C. §2901.03(A), under statutory law R.C.'s §2935.02, §2935.09, and criminal Rule[3].

(B) In this instant case defense counsel induced Petitioner to plea guilty to two (2) very serious felonies without "benefit" of discovery which was prejudicial to Petitioner and denied Petitioner reasonable assistance of counsel. *Kimmelman v. Morrison*, 479 U.S. 365-385 (1986) ["ineffective assistance of counsel, when counsel failed to conduct any pre-trial discovery and failed to file timely motion to suppress illegally seized evidence because unreasonable and below prevailing professional norms"]; Counsel failed to reasonably investigate alleged eyewitnesses; *Brayant v. Scott*, 28 F.3d 1411-1418 (5th Cir. 1994), in this case the court held that "it is ineffective assistance when counsel failed to investigate alibi witnesses and eyewitnesses, because alibi witnesses known and eyewitnesses testimony important to prosecute case"; In addition counsel in this instant case at bar failed before and after plea agreement to orally, directly inform Petitioner of his right to direct appeal, even after Petitioner and his mother asked counsel about direct appeal, and notice of timely appeal; *Lozada v. Deeds*, 964 F.2d 956, 958-59 (9th Cir. 1992), this court ruled that "[C]ounsel's failure to notify defendant of decision not to file notice of appeal actual denial of assistance of counsel; prejudice to defendant presumed:"] With, *Hollenback v. U.S.* 987 F.2d 1272-1276 (7th Cir. 1993); *U.S. v. Peak*, 992 F.2d 39, 41 (4th Cir. 1993), this court went further and held "it is ineffective assistance when counsel failed to file direct appeal notwithstanding likelihood of success of appeal"; *U.S. v. Gipson*, 985 F.2d 212, 215-16 (5th Cir. 1993), this court ruled "ineffective assistance" to be determined on remand when counsel failed to inform defendant of 10-day deadline for filing an appeal after defendant expressed desire to appeal conviction"; *William v. Lockhart*, 849 F.2d 1134, 1137-38 (8th Cir. 1988) "defendant entitled to evidentiary hearing on ineffective assistance when claimed she asked trial counsel to file notice of appeal and counsel did not". Immediately after sentencing in trial court Petitioner asked counsel to file appeal

[T]he 6th amendment to the U.S. Constitution guarantees a person accused of a crime the right to effective assistance of counsel, the U.S. Supreme Court has adopted a two(2) prong test for determining whether counsel's representation of a criminal defendant at trial is so deficient as to deny him his constitutional right to effective assistance of counsel and to require reversal of his convictions: First, the defendant must show that counsel's performance was deficient, this requires showing that counsel made errors so "serious" that counsel was not functioning as the "counsel" guaranteed the defendant by the 6th amendment. Second, the defendant must show that the deficient performance prejudiced the defense, this requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is "reliable", Strickland v. Washington, (1984), 466 U.S. 668-667; The state of Ohio has adopted essentially the same standard, "[W]hen considering an allegation of ineffective assistance of counsel, a two(2) step process is usually employed, First, there must be a determination as to whether there has been a substantial violation of any of defense counsel's essential "duties" to his client; Next, and analytically separate from the question of whether the defendant's 6th amendment rights were violated, there "must" be a determination as to whether the defense was prejudiced by counsel. State v. Bradley, (1989), 42 Ohio St.3d.136-141. In this case, not only is there ample evidence that Petitioner trial attorney allowed him to be convicted under the common law statute, but, also, there is evidence available to show that his (Petitioner's) trial counsel permitted the prosecutor's attorney office to prosecute Petitioner without any public interest or any State government interest, and "given the "crucial" import of the statutory subject matter jurisdiction issues "Petitioner's counsel's conduct" fell well below a reasonable standard of Professional representation, 1997 U.S.App.Lexis 20746 at 11., because, counsel's action permitted Petitioner to be convicted/plea to a void statute, that "is not criminal in the state of Ohio". City of New Albany v. Dalton, 104 O App.3d.307, 661 N.E.2d. (Franklin Co.1995); State v. Miller, 47 O.App.3d.113-114; Middletown v. Blevings, 35 O App.3d.65, 519 N.E.2d.846 (Bulter Co.1987); State v. Mullins, 124 O.App.3d.112-114, 705 N.E.2d.709 (Warren 1997). The 12th District court of appeals held that trial court's "constuctive amendment" to the complaint by convicting the defendant to a "structural defect" and a plain error of law, and rules of criminal Procedure 52(B)

Petitioner realizes that there is a presumption that a licensed attorney provides effective representation, however, but, the errors in Petitioner's case are so "egregious" that it should be plain that substantial justice was not done. As the 8th circuit federal court of appeals stated in, *Thomas v. Lockhart*, 738 F.2d.304(8th Cir.1984) "Just as hindsight cannot be used to condemn counsel's performance, it cannot be used to justify it" 738 F.2d. at 309. These several cases cited in the claim herein have found sufficient operative facts to either warrant a hearing under R.C. §2935.22, or warrant the conviction being void, pursuant to R.C. §2935.21 of section (E), as none of Petitioner's claims have been submitted, and there is no contradict issues of facts to the existence of this evidence, and, that the post-conviction is not the legal proper remedy to raise such constitutional violations, as stated in *Perry supra* at 104, when a Petitioner challenges a void judgment as here, "a Petitioner need not show that counsel's deficient conduct more likely than not altered the outcome of the case", because, "[T]he lack of statutory subject matter of jurisdiction is a structural defect", *Arizona v. Fulminate*, 499 U.S.279, 310-311(1991), and renders "all proceedings held against Petitioner void. *Barnes v. Welch*, 105 F.3d.1111, (6th Cir. )

[P]etitioner was detained of his liberty at 1535 Pleasant St. in Hamilton county, Ohio then arrested without be orally informed why, charged, indicted for violating a common law statute, and since his arrest, he has been continually deprived of his liberty, and freedom pursuant to a "sham legal process and fraud", by the alleged party plaintiff, acting in "bad faith", because, there is "no record" in Petitioner files or the clerk of court records of any invocation of the public or the State government interest, also, there is "no records" of the State of Ohio government action being committed in Hamilton county, Ohio on or after March 27, 1997, or the dates/year in the prosecutor's indictment setting forth under "oath" or affirmation that a crime was committed and that Petitioner committed it, pursuant to R.C.'s §2901.03(A), §2937.02, §2935.09, §2935.17(B), and, §309.08, these statutes must be read together in paria materia, for reasons in claims one through (3) three, that Petitioner has committed "no" crime pursuant to R.C. §2901.03(A), and, is being held "unlawfully" by both the judicial and executive branches of the State's governments without any "lawful" judicial action appearing on the face of his records as mandated by Criminal Rule 55, or the cause of the lawful action being filed in any court of records in the State Ohio as required by R.C.'s §2937.02, §2935.09, §2935.17(B), §309.08, to give the prosecutor's of Hamilton county the "lawful commission" to act as a party-plaintiff in the instant matters.

They are without the lawful authority to act on any common law criminal violations, without an pre-indictment [affidavit/complaint], joining them in a criminal action against Petitioner, R.C. §2901.03(A)(B). They are erroneously name plaintiff is totally without lawful standing at the grand jury proceedings, or any court proceedings, and this post-conviction proceedings, before this court, are prohibited by state and federal law from joining with Petitioner as a lawful party, "as they represent" no "real party in interest" [A victim of a crime], citing Art. 1, Section 10, and U.S. v. McElroy, 164 U.S. 54, 17 S.Ct. 19, furthermore, as they [the State of Ohio], are not properly and lawfully joined in a state criminal matter against Petitioner, to exercise the state of Ohio statutory duty to lawfully invoke the statutory criminal [branch] subject matter jurisdiction on a prosecutor indictment along, pursuant to R.C.'s §2931.02, §2931.03, §2901.03(A), "made mandatory" by the state legislature to cause the arrest and prosecution, by the enactment of R.C.'s §2937.02, §2935.09, §2935.17(B), and, empower this court of record on any and all felony complaints return in a true bill from Hamilton county grand jury, pursuant to R.C.'s §2935.09, §2935.10, §2939.20 and §2939.22; These statutes must be read together in pari materia, Petitioner, by state statutory law, was not brought lawful prosecution as required by the due process, in our 14th amendment of the U.S. Constitution, "as he have never be lawfully placed in Jeopardy", [no criminal affidavit or complaint filed against him], as required by the statutory laws in the state of Ohio in R.C.'s §2901.03(A), §2935.09, §2935.17(B), citing in RE Frinz, 152 O.S. 164, and this court was not invoked with the statutory subject matter jurisdiction over the charges of common law statutes within the constructive indictment return from the void proceedings held by the Hamilton county grand jury, because, by "statute, the lawful and mandatory", statutory, subject matter jurisdiction of this court's general jurisdiction and the power of the Hamilton county prosecuting attorneys office is only granted upon the statutory criminal statutes and by the state legislative's acts", and not Ex Officio as what was done in the instant case, or by rules of the Supreme court, [Criminal Rule 3]. This court nor the prosecution attorneys, "may usurp" or change the intents of the state legislative enactments which is the law in the state of Ohio, on the instant jurisdiction question, before this court on review.

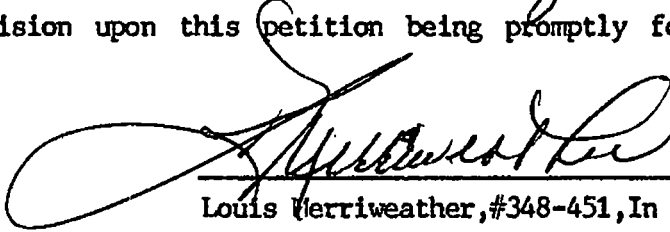
[T]herefore, Petitioner moves this court to proceed with the law and the Rules of R.C.'s §2935.22, §2935.22, §2953.21(C)(E), in according with the statutory laws.

in State v. Perry, 10 Ohio St.2d.175.266 N.E.2d.104 Id. Even though Petitioner was convicted under a common law statute, and his judgment of conviction was void. Furthermore, since 6½ years have passed since his arrest on March 27, 1997, "to void judgment of conviction as may any more presumptively prejudicial and injustice in case of; State v. Louis Merriweather, case #B-9702196, "It is not the Petitioner's fault that Hamilton county, and the state of Ohio did not follow proper procedure and violated Petitioner's Ohio and U.S. Constitutional rights, and arrested, charged and indicted Petitioner, then involuntarily placed him in prison without due process of Ohio's laws.

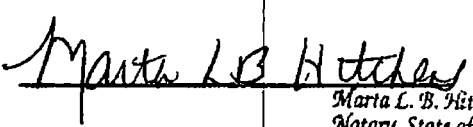
#### CERTIFICATE OF SERVICE

I Petitioner, Merriweather, do hereby certify that copies of the foregoing Petition for post-conviction on subject matter jurisdiction was forward by first class pre-paid U.S. mail to the Hamilton Clerk of Court's records Desk, at 230 E. 9th, Cincinnati, Ohio, 45202, on this day of 25th Aug. 2003.

It is further requested any decision upon this petition being promptly forward to Petitioner.

  
Louis Merriweather, #348-451, In Pro Se,  
P.O. Box 5500  
Chillicothe, Ohio, 45601-0990

Sworn to and Subscribed in my Presence on this day 25th of Aug. 2003



Maria L. B. Hitchens  
Notary, State of Ohio  
License No. 5239  
Commission Expires 3/3/2004

NOTARY PUBLIC



IN THE COURT OF COMMON PLEAS  
FOR HAMILTON COUNTY, OHIO

STATE OF OHIO-PALINTIFF:

-vs-

LOUIS MERRIWEATHER, -DEFENDANT-PETITIONER:

Case No.B-9702196

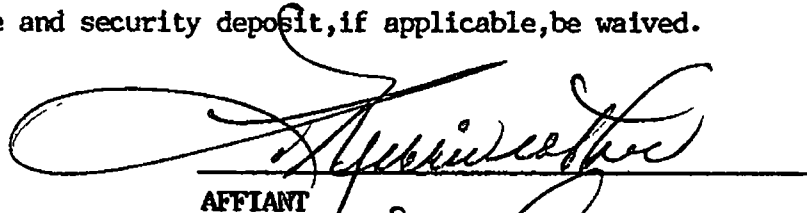
Judge Robert S.Kraft

AFFIDAVIT OF INDIGENT

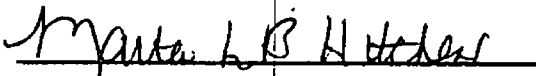
I, Louis Merriweather, do hereby state that I am without the necessary funds to pay the costs of this action for the following reasons:

I am currently incarcerated at the Chillicothe Corrections, and I have been incarcerated since June 30, 1997, I do not work within the Institution, because of medical conditions and I receive about \$6.00 dollars a month in state pay.

Pursuant to Rule XV, Section 3, of the Rules of Practice of the Supreme Court of Ohio, I am requesting that the filing fee and security deposit, if applicable, be waived.

  
AFFIANT

Sworn to, or affirmed, and subscribed in my presence this 25th day of Aug. 2003.

  
NOTARY PUBLIC

Marta L. B. Hitchens  
Notary, State of Ohio  
License No. 5239  
Commission Expires 3/3/2004



FORM B

B9702196

HAMILTON COUNTY CLERK OF COURTS  
HAMILTON COUNTY COURTHOUSE  
COMMON PLEAS RECORDS DESK  
1000 MAIN STREET, ROOM 315  
CINCINNATI, OHIO 45202

Person Requesting Records:

Louis Merrinweather

Number:

348451

Institution:

Date Request Received:

(1.) WE HAVE FILLED THE FOLLOWING RECORDS REQUEST:

Copy of Appearance Docket - Mr.  
Merrinweather your Demand for Discovery  
was filed on 4/30/1997 -  
After checking the appearance docket -  
I did not locate any further information  
on your Demand for Discovery.  
This is a Court of Appeals Case - (see next page)

(2.) YOUR RECORDS REQUEST HAS BEEN ANSWERED BY:

First Name of Deputy Clerk:

Whette

Badge #:

0637

Telephone Number: (513)

946-5671

Fax Number: (513)

946-5670

Mailing Address:

Hamilton County Courthouse  
1000 Main Street, Room 315  
Cincinnati, OH 45202

Date Request Answered:

6/13/2003

Answer Sent By:

Whette

MANY OF THE RECORDS YOU ARE REQUESTING MAY BE  
AVAILABLE FREE-OF-CHARGE, 24 HOURS PER DAY ON  
OUR WEBSITE <<http://www.courtclerk.org>>.

Attachment: Copy of Records Request Received by the Clerk of Courts.

JUNE 24 , 2003

HAMILTON COUNTY  
CLERK OF COURT OF APPEAL  
CINCINNATI, OHIO 45202

DEAR. SIR LOUIS MERRIWEATHER # 348-451

LOOKING OVER THE CRIMINAL DOCKET FOR B-9702196  
THE DISCOVERY IS SOMETHING THAT SHOULD HAVE  
BEEN FILED . UNDER B-9702196 CASE HERE IS A PRINTOUT  
OF THE APPELLATE DOCKET # C0100232 IT DOES NOT SHOW ANY  
DISCOVERY FILED THIS CASE .

CLERKS OFFICE  
HAMILTON COUNTY APPELLATE

## Hamilton County Court System

APPEARANCE DOCKET

C 0100232

Print Date: 6/23/2003

Page 1  
CMSR5143Attorney -  
Attorney -  
Judge -

PRO SE

29997

STATE OF OHIO vs. LOUIS MERRIWEATHER

Filed: 3/29/2001 A105 - NOTICE OF APPEAL - CRIMINAL - POVERTY AFFIDAVIT

Total Deposits \$0.00

Total Costs \$0.00

9705928 LOUIS MERRIWEATHER  
Appellant(s)  
vs.  
9705927 STATE OF OHIO  
Appellee(s)

CLICAL AVAIL.	IMAGE	DATE	DESCRIPTION	AMOUNT
N		3/29/2001	NO DEPOSIT REQUIRED-POV.AFF. LOUIS MERRIWEATHER	0.00
N		3/29/2001	APPEAL - ON QUESTIONS OF LAW	
N		3/29/2001	NOTICE OF APPEAL FILED.	
N		3/29/2001	COMMON PLEAS TRIAL COURT # B9702196	
N		3/29/2001	COPY SENT BY ORDINARY MAIL TO HAMILTON COUNTY PROSECUTOR	
N		3/29/2001	DOCKET STATEMENT FILED. B9702196	
N		3/29/2001	APPLICATION AND AFFIDAVIT BY INCARCERATED PERSON TO PROCEED WITHOUT PREPAYMENT OF FEES	
Y		4/17/2001	MOTION TO APPOINT COUNSEL	
Y		4/17/2001	MOTION TO PREPARE TRANSCRIPT OF PROCEEDINGS AT STATE EXPENSE	
Y	3	5/04/2001	ENTRY OF DISMISSAL B9702196	
		5/04/2001	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	
Y		6/14/2001	MOTION TO PREPARE TRANSCRIPT OF PROCEEDING AT STATE EXPENSE	
Y		6/14/2001	MOTION FOR LEAVE TO FILE DELAYED APPEAL AS OF RIGHT	
Y		6/14/2001	MOTION FOR LEAVE TO APPEAL	
Y		6/14/2001	AFFIDAVIT AFFIFAVIT	
Y		6/14/2001	MOTION TO APPOINT COUNSEL	
Y		6/14/2001	AFFIDAVIT AFFIDAVIT OF INDIGENCY	
Y		6/14/2001	DOCKET STATEMENT FILED. B-9702196	
Y		7/20/2001	MEMORANDUM IN OPPOSITION TO DEFENDANTS MOTION FOR DELAYED APPEAL	
Y	6	7/20/2001	ENTRY STRIKING MOTIONS FOR LEAVE TO APPEAL	
		7/25/2001	NOTICE OF ORDER OR JUDGMENT SENT BY ORDINARY MAIL TO ALL PARTIES REQUIRED BY LAW.	

GREGORY A. COHEN  
*Attorney at Law*

THE CITADEL

114 East Eighth Street  
Cincinnati, Ohio 45202  
Phone: (513) 621-9016  
Fax: (513) 621-2525  
rugbyatty@cs.com

May 19, 2003

Louis Merriweather, #345-451  
Chillicothe Corrections  
P.O. Box 5500  
Chillicothe, Ohio 45601-0990

Dear Mr. Merriweather:

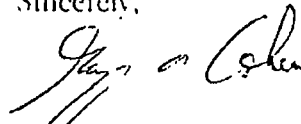
I have reviewed your letter and I have also discussed your letter with a fellow attorney. I have moved my practice away from the post-conviction and habeas corpus pleadings because of my busy trial practice.

I believe that you may have cause of action and may benefit from the assistance of an attorney. Therefore, I am enclosing the card of William R. Gallagher who is an outstanding appellate and post-conviction attorney as well as a former President of the Greater Cincinnati Criminal Defense Lawyers association. I am returning your correspondence so that you can cross out my name and replace it with another attorney's name.

I have also enclosed a copy of the docket statement and I am mystified how or why any lawyer would plead a client out to serious charges prior to receiving a Discovery Response from the State. You were Indicted on April 2<sup>nd</sup> and entered a Plea approximately 45 days later without the benefit of effective assistance of counsel

I wish you luck with this matter and I am competent that if anything can be done on your behalf, Mr. Gallagher is the man to do it.

Sincerely,



Gregory A. Cohen  
Attorney at Law

GAC/aeo  
Enclosure

Merrickhen  
#348-451  
P.O. Box 5500  
Chillicothe, Ohio  
45601-0990  
7/5/03

STANDARD  
FBI  
CH

Re: MC #97CR9740A - ~~App: Docket~~ B-9702196

Please forward to me, The Complaint/Summons  
affidavit, filed against me under the above  
MC number.

② Warrant on Indictment

③ Disposition of Community Diagnostic Treatment  
Center examination, Enter 5/16/1997

④ Request For Bill of Particulars - 4/30/1997

⑤ Subpoena for witnesses issued - 5/15/1997

Respectfully Submitted  
Merrickhen  
#348-451



FORM B



HAMILTON COUNTY CLERK OF COURTS  
HAMILTON COUNTY COURTHOUSE  
COMMON PLEAS RECORDS DESK  
1000 MAIN STREET, ROOM 315  
CINCINNATI, OHIO 45202

Person Requesting Records: Louis Merriweather Number: \_\_\_\_\_

Institution: \_\_\_\_\_ Date Request Received: \_\_\_\_\_

(1.) WE HAVE FILLED THE FOLLOWING RECORDS REQUEST:

Copy of Indictment, Judgment Sentence,  
Appearance Docket & Pleas.

(2.) YOUR RECORDS REQUEST HAS BEEN ANSWERED BY:

First Name of Deputy Clerk: Huette Badge #: 0037

Telephone Number: (513) 0946-5671 Fax Number: (513) 946-5670

Mailing Address: Hamilton County Courthouse  
1000 Main Street, Room 315  
Cincinnati, OH 45202

Date Request Answered: 8/14/2003 Answer Sent By: Huette

MANY OF THE RECORDS YOU ARE REQUESTING MAY BE  
AVAILABLE FREE-OF-CHARGE, 24 HOURS PER DAY ON  
OUR WEBSITE  
[www.courtclerk.org](http://www.courtclerk.org)

Attachment: Copy of Records Request Received by the Clerk of Courts.

TODAY'S DATE: 8/14/2003  
CASE: B 9702196

HAMILTON COUNTY CLERK OF COURTS  
COMMON PLEAS DIVISION  
Criminal Appearance Report

PAGE 1  
CMSR5155

A P P E A R A N C E D O C K E T

Attorney - Plaintiff  
Attorney - Defendant  
Cur Judge -

JACK C RUBENSTEIN  
ROBERT S KRAFT

6200  
15

STATE OF OHIO vs. LOUIS MERRIWEATHER

Total Deposits \$ .00  
Total Costs \$0.00

STATE OF OHIO  
vs.

LOUIS MERRIWEATHER  
213 BOSNICK AV  
CINTI

Municipal #: , , ,

OH 45210

ace: B Age: 49 Sex: M

Filed: 4/02/1997 0005 - WARRANT ON INDICTMENT

Count:1	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:2	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:3	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:4	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997

IMAGE	DATE	DESCRIPTION	AMOUNT
-------	------	-------------	--------

	4/02/1997	INDICTMENT REPORTED AND FILED. INDICTMENT FOR RAPE 2907.02A1b R.C. W/ SPEC. (4CNTS)	
	4/02/1997	PRECIPE FOR WARRANT FILED AND WARRANT ISSUED.	
	4/03/1997	SIMON L. LEIS JR., SHERIFF: I HAVE IN CUSTODY AND HAVE SERVED COPY OF INDICTMENT ON SAID DEFENDANT BY SNOWDEN, SR. DEPUTY	
230	4/10/1997	ORDER TO SEAL ENTRY	
1	4/11/1997	WAIVER OF PRESENCE OF DEFENDANT AT ARRAIGNMENT 100,000	
	4/11/1997	COUNSEL ASSIGNED DANIEL F BURKE JR	
159	4/24/1997	ENTRY OF CONTINUANCE 5/7/97	
40	4/25/1997	ORDER TO SEAL ENTRY	
	4/30/1997	WRITTEN REQUEST FOR BILL OF PARTICULARS.	
	4/30/1997	DEFENDANT'S DEMAND FOR DISCOVERY	
52	5/07/1997	ENTRY OF CONTINUANCE 5/15/97	
	5/14/1997	SUBPOENA FOR WITNESS RETURNED AND ENDORSED ERICA PARRISH	
	5/15/1997	SUBPOENA FOR WITNESS ISSUED TO ERICA PARRISH	
124	5/15/1997	ENTRY WITHDRAWING PLEA OF NOT GUILTY AND ENTERING PLEA OF GUILTY CT 1 & 2 RAPE F-1 2907.02 DISMISS CT 3 & 4 & SEXUAL PREDATORS SPEC CTS 3 & 4	
130	5/15/1997	ENTRY ON WAIVER OF TRIAL BY JURY.	
241	5/15/1997	ENTRY ORDERING PROBATION INVESTIGATION AND REPORT. CLINIC EVAL.REPORT ORDERED. REMANDED. SENT SET 6/18/97	
19	5/16/1997	ENTRY APPOINTING COMMUNITY DIAGNOSTIC AND TREATMENT CENTER FOR EXAMINATION	
65	6/18/1997	ENTRY ADJUDICATING OFFENDER AS A: SEXUAL PREDATOR	
66	6/18/1997	ENTRY ORDERING PROCESSING OF OFFENDER	

TODAY'S DATE: 8/14/2003  
CASE: B 9702196

HAMILTON COUNTY CLERK OF COURTS  
COMMON PLEAS DIVISION  
Criminal Appearance Report

PAGE 2  
CMSR5155

A P P E A R A N C E D O C K E T

225 6/18/1997 JUDGMENT ENTRY: INCARCERATION  
DOC 10YRS ON EACH CTS 1 & 2 CONCURR.  
TO EACH OTHER WITH CREDIT FROM 3/23/97  
THRU 6/18/97. REMANDED. PAY COURT  
COSTS. FOUND TO BE A SEXUAL PREDATOR

564 6/28/1997 ENTRY APPROVING COUNSEL FEES  
\$300  
5/06/1998 CRIMINAL STATE COSTS SATISFIED  
12/06/2000 MOTION  
FOR JUDICIAL RELEASE.

209 12/21/2000 ENTRY OVERRULING JUDICIAL RELEASE  
2/14/2001 AFFIDAVIT OF INDIGENCY  
2/14/2001 MOTION  
FOR PRODUCTION OF TRANSCRIPTS BY  
INDIGENT DEFENDANT.  
3/08/2001 MOTION  
FOR APPOINTMENT OF COUNSEL.  
3/08/2001 AFFIDAVIT OF INDIGENCY  
3/29/2001 NOTICE OF APPEAL FILED  
NO. C0100232 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR  
3/29/2001 DOCKET STATEMENT FILED.  
B9702196  
4/10/2001 MOTION TO DISMISS  
REQUEST FOR TRANSCRIPTS

135 4/26/2001 ENTRY GRANTING MOTION  
TO DISMISS REQUEST FOR TRANSCRIPTS  
5/04/2001 ENTRY OF DISMISSAL  
05/04/01 IMAGE# 3  
C0100232  
\*\*COPY SENT TO DOC AND DEFENDANT ON  
05/21/01 RSR\*\*  
6/14/2001 DOCKET STATEMENT FILED.  
C-010232  
9/28/2001 NOTICE OF APPEAL FILED AND MOTION FOR  
DELAYED APPEAL  
NO. C0100638 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR  
9/28/2001 DOCKET STATEMENT FILED.  
10/01/2001 DOCKET STATEMENT FILED.  
C01000638  
10/02/2001 DOCKET STATEMENT FILED.  
C-010638  
11/02/2001 ENTRY OVERRULING MOTION FOR LEAVE TO  
APPEAL  
C0100638  
11/02/01 IMAGE# 4  
\*\*\*COPY SENT TO DOC AND DEFENDANT ON  
11/19/01 RSR\*\*\*  
12/18/2001 NOTICE OF APPEAL OF APPELLANT L.  
MERRIWEATHER FILED IN THE SUPREME  
COURT OF OHIO ON 12/12/01, SC# 01-2152

252 2/19/2002 MOTION  
FOR JAIL TIME CREDIT PURSUANT TO  
O.R.C. #2967.191  
3/04/2002 ENTRY GRANTING MOTION FOR JAIL TIME  
CREDIT  
3/19/2002 COPY OF ENTRY DENYING LEAVE TO APPEAL  
AND DISMISSING APPEAL, FILED IN THE  
SUPREME COURT OF OHIO ON 03/04/02, SC  
# 01-2152  
7/29/2002 MOTION  
TO SUSPEND INCARCERATION/JUDICIAL  
RELEASE O.R.C. 2929.20  
8/23/2002 MOTION  
TO STAY FURTHER PROCEEDING OF #2929.20  
8/27/2002 MOTION  
FOR DECLARATORY RELIEF OF SENTENCING.  
10/08/2002 MOTION  
TO STRIKE FROM RECORDS

TODAY'S DATE: 8/14/2003  
CASE: B 9702196

HAMILTON COUNTY CLERK OF COURTS  
COMMON PLEAS DIVISION  
Criminal Appearance Report

PAGE 3  
CMSR5155

A P P E A R A N C E D O C K E T

11/22/2002 MOTION  
FOR RECUSAL OF SENTENCING JUDGE  
12/20/2002 MERRIWEATHER'S MOTION FOR  
POST-SENTENCE WITHDRAWAL OF GUILTY  
PLEAS.  
1/10/2003 FILING  
1/17/2003 MOTION  
TO AMEND POST-SENTENCE WITHDRAWAL OF  
GUILTY PLEAS.  
284 2/13/2003 ENTRY  
DENYING MOTION FOR POST SENTENCE  
WITHDRAWAL OF GUILTY PLEA  
285 2/13/2003 ENTRY  
DENYING MOTION FOR RECUSAL OF  
SENTENCING JUDGE  
3/04/2003 MOTION  
TO SUSPEND FURTHER INCARCERATION UNDER  
JUDICIAL RELEASE O.R.C. #2929.20  
35 3/06/2003 ENTRY OVERRULING  
MOTION FOR JUDICIAL RELEASE  
4/09/2003 MOTION  
FOR EMERGENCY DECLARATORY JUDGMENT.  
4/09/2003 MOTION  
FOR EVIDENTIARY HEARING TO CORRECT  
MANIFEST INJUSTICE UNDER CRIM. R. 32.1  
234 4/11/2003 ENTRY DENYING:  
MOTIONS  
5/15/2003 JUDICIAL NOTICE.

AUG.14 '2003 11:02

#6435 P.001/001

BA 97-02196  
LOUIS MERRIWEATHER

APR 11 1997

ARRAIGNMENT  
Plea of not Guilty Entered

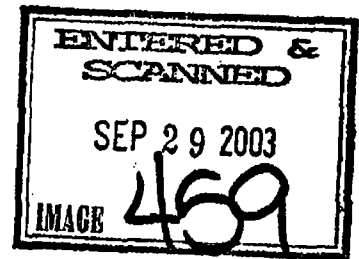
May 15, 1997  
Plea Guilty FG Rape, 2907.02(A)(1)(b) R.C.  
(P-1) in Cts. #1 and #w (under 13/no force);  
(Cts. #3 and #4 and specs. to Cts. #1, #2, #3  
and #4 dismissed). P.S.I. & Clinic Evaltn.  
report ordered. Def. remanded pending sentence  
set for 6/18/97 at 9:00 A.M.

Kraft,J.

June 18, 1997  
Sentence: ODC for 10 yrs. on each of Cts. #1 and  
#2 to run concurrently to each other w/credit days  
given from 3/23/97 thru 6/18/97. Def. remanded.  
Def. to pay CC. (Def. found to be a sexual  
predator).

Kraft,J.

**COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO**



**STATE OF OHIO,**

Plaintiff

vs.

**LOUIS MERRIWEATHER,**

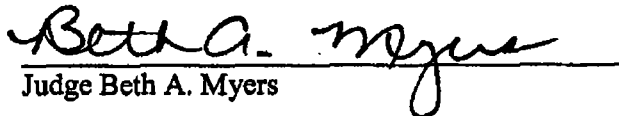
Defendant.

\* Case No. B9702196

\* Judge Beth A. Myers

\* **ENTRY DENYING MOTION**

Upon consideration of Defendant's Motion, the Court hereby denies Defendant's Motion and his request for evidentiary hearing. Pursuant to § 2953.21 and 2953.23 of the Ohio Revised Code, Defendant's Motion was not timely filed. Further, the Court finds that no grounds exist for the relief requested.

  
Judge Beth A. Myers

**ENTER**

SEP 29 2003

**BETH A. MYERS, JUDGE**

**B**



IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

STATE OF OHIO

Plaintiff

vs.

LOUIS MERRIWEATHER

Defendant



C030940

Case NO.B-9702196

*Original*

NOTICE OF APPEAL

Notice is hereby given that Louis Merriweather, defendant, hereby appeals to the Court of Appeals of Hamilton County, Ohio, First Appellate District from final judgment entered in this action on the 29th day of Sept. 2003.

**FILED**  
**COURT OF APPEALS**

DEC 23 2003

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

Respectfully Submitted:

Louis Merriweather, #348-451  
P.O. Box 5500  
Chillicothe, Ohio 45601-0990

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this notice of Appeal was forward per-paid to the clerk of Court's Hamilton, County Common pleas, at 1000 Main St. Cincinnati, Ohio 45202, on this 17 day of Dec, 2003.

Louis Merriweather

ORIG, COMP, PARTIES, SUMMONS	
<input type="checkbox"/> CERT MAIL	<input type="checkbox"/> SHERIFF <input type="checkbox"/> WAVE
<input type="checkbox"/> PROCESS SERVER	<input type="checkbox"/> NONE
CLERKS FEES _____	TIC _____
SECURITY FOR COST _____	
DEPOSITED BY _____	29997
FILING CODE _____	A-105

GREGORY HARTMANN  
CLERK OF COURTS  
HAM. CNTY. OH

2003 DEC 23 A 11:26

FILED

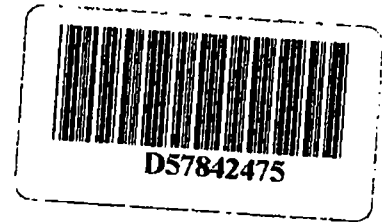
CLERK OF COURTS

DEC 23 2003

RECEIVED BY \_\_\_\_\_

C

IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO



STATE OF OHIO

APPEAL NO. C-030940  
TRIAL NO. B-9702196

Appellee,

vs.

ENTRY OF DISMISSAL

LOUIS MERRIWEATHER

Appellant.

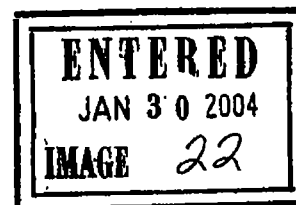
This cause came on to be considered upon the appeal from the trial court, and  
The Court *sua sponte* dismisses the appeal for failure of the appellant to comply with the  
Ohio Rules of Appellate Procedure to wit: the Notice of Appeal was not timely filed.

It is further Ordered that a certified copy of this judgment shall constitute the mandate to  
the trial court pursuant to Rule 27, Ohio Rules of Appellate Procedure.

To The Clerk:

Enter upon the Journal of the Court on 1/30/04 per order of the Court.

By: *Ralph W. Smith* (Copy sent to counsel)  
Presiding Judge





D57391163

IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO

EXHIBIT

STATE OF OHIO  
Plaintiff-Appellee

-vs-

LOUIS MERRIWEATHER

C030948

C.A.No. \_\_\_\_\_

Trial Court No.B-9702196

STATE OF OHIO, COUNTY OF HAMILTON, SS:

NOTICE OF REQUEST FOR LEAVE TO FILE  
DELAYED APPEAL UNDER APP.R.5(a)

Now comes Appellate-defendant, Louis Merriweather, in pro se, an unlettered Appellant, and formally give notice for request for leave to file a delayed appeal under App.R. 5(a), from ruling or judgment entered in the above case from the Hamilton county common pleas court on Sept.29,2003, without strictly complying with Ohio's Civil Rules of Procedure 5(a) and 58(B), "notice of service and or Post-card service" of ruling or judgment entered in the present case, denying Appellant the right to

a timely direct appeal.

ORIG. COMP. FILING: \_\_\_\_\_

( ) CERT MAIL ( ) SHERIFF ( ) WAVE

( ) PROCESS SERVER ( ) NONE

CLERKS FEES \_\_\_\_\_ TIC

SECURITY FOR COST \_\_\_\_\_

DEPOSITED BY 29997

FILING CODE A-117

Respectfully Submitted

Louis Merriweather #324151  
P.O.Box 5500  
Chillicothe, Ohio 45601-0090

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

2003 DEC 26 P 3:58

FILED

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this notice was forward by U.S.mail to Mr. Michael K.Allen, 230 E.9th St., Cincinnati, Ohio 45202, on this 17 day of Dec 2003.

Louis Merriweather

FILED  
COURT OF APPEALS

DEC 26 2003

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

E

MEMORANDUM IN SUPPORT

Now comes Appellant-defendant, Louis Merriweather, in pro se, and respectfully moves this honorable court for leave to file a delayed appeal under App. Rule 5(a), on a ruling/judgment that was issued on Sept. 29, 2003, in the Hamilton county common pleas court in the above case no. B-97021/96, the reason for this request is that trial court and the Hamilton county clerk of courts failed to timely provide Appellant with "notice of service" on trial court's denial of petition filed under O.R.C. § 2953.21, on a serious question of "subject matter jurisdiction", which was raised on first time under "new and discovered evidence". This petition was filed with Hamilton county clerk of courts on Sept. 9, 2003.

FACTS OF CASE NO. B-97021/96

In March 1997, appellant was arrested without a warrant and without being properly orally informing Appellant of what he was being arrested for, during trial court proceeding "without". (1) per-trial discover; (2) without a proper complaint; appellant was induced by trial counsel to plea guilty too 4 counts of rape without force or threat of force, in violaion of O.R.C. § 2907.02(A)(1), in "absence" of a complaint and affidavit properly filed as provided by O.R.C. § 2935.05 and Rule 4(E)(2) of the Ohio Rules of Criminal Procedure.

SECTION § 2935.05; states in part;

When a person named in section § 2935.05 of the Revised Code has arrested a person without a warrant the arresting officer shall without unnecessary delay, take the person arrested before a court or magistrate having jurisdiction of the offense, and shall file or cause to file an affidavit describing the offense for which the person was arrested.

RULE 4 (E)(2); PROVIDES IN PERTINENT PART;

**(2) Arrest without warrant:**

"Where a person is arrested without a warrant the arresting officer shall,bring the arrested person without unnecessary delay befor a court having jurisdiction of the offense,and shall file or cause to be filed a complaint describing the offense for which the person was arrested.

Thus,under Ohio law the"complaints and affidavits"in the present case were"**not**"arrest warrants but were"charging instruments",As such,in absence of a complaint and affidavit,did"**not**"strictly complie with the requirements of Rule 3 of the Ohio Rules of Criminal Procedure,which states;

"The complaint is a written statement of the essential facts constituting the offense charged.It shall also state the numerical designation of the applicable statute or ordinance.It shall be made upon oath before any person authorized by law to administer oaths.**(Emphasis added)**."**[The]** purpose and function of a complaint is to inform the accused of the crime of which he is charged.It forms the essential basis of the court's jurisdiction and the subsequent trial and judgment",City of Cleveland v.Weaver,10 Misc(2d) 15,461 N.E.2d.32(Muni,Cleveland 1983);City of New Albany v.Dalton,104 App.(3d),307,661 N.E.2d.1132(Franklin 1995);State v.Villagomez,44 App.(2d)209,211,337 N.E.2d.167.**[The]** properly filed complaint gives"Municipal Court"in Ohio jurisdiction in a criminal case,without a proper complaint as in the present case,municipal court lacked jurisdiction.

"**[M]**unicipal court did not acquire competent jurisdiction in criminal case when complaint and affidavit were not properly signed by complainant,"in absence of sufficient formal accusation,a court acquires"**no**"jurisdiction,and if it assumes jurisdiction,a trial,conviction are nullity.State v.Miller,547 N.E.2d.399 (Hamilton County 1988):In State v.Craig,**(Mar.12,1986)**,Hamilton App.No.C-850444,unreported,1986 WL 3096,holding"The complaint is the jurisdictional instrument of the municipal court".

"The filing of a proper affidavit is pre-requisite to acquisition of jurisdiction by municipal court, and writing which purports to be affidavit is without any validity unless properly sworn to before some person possessing authority to administer oaths. *South Euclid v. Samartini*, (M.C.1965), 5 Ohio Misc.38,31 O.O.2d.87,204 N.E.2d.425. Failure to have affidavit verified is jurisdictional, and such defect cannot be waived.

The Ohio Constitution guarantees to every defendant the right to know the "nature and cause of the accusation against him", section 10, article 1, of the Ohio Constitution. The primary purpose of a charging instrument in a criminal prosecution is to inform the defendant of the nature of the offense with which he is charged. *State v. Lindway*, (1936), 131 Ohio St.166, 2 N.E.2d.490, cert.den.299 U.S.506, 57 S.Ct.36, 81 L.Ed.375; *Holt v. State*, (1923), 107 Ohio St.307, 140 N.E.2d.349; *State v. Villagomez*, (1974), 44 Ohio App.209, 337 N.E.2d.167; *City of Toledo v. Kohlhofer*, (1954), 96 OHIO App.355, 122 N.E.2d.20; See *Schroeder-Katz*, Ohio Criminal Law Vol.2, "Crim.R.3..Author's text's p.126; "Since under the Rules of Criminal Procedure the "complaint" serves the same function as the affidavit did in pre-rule days, the same standard for judging the sufficiency of an affidavit must be applied, unless some provision of the Rules of Criminal Procedure changes the rule that the complaint must state "all" the material elements of the crime charged. The state places great emphasis on the fact that Criminal Rule 3, states that the complaint should contain "essential" facts constituting the offense charged" and does not mention the term "elements of the crime" "Crim.Rule 3 means at a minimum that the list of essential facts contained in the complaint must state the essential elements of the crime charged. In the present case there appears after over 4 years of requests to be "no" complaint sworn or unsworn listing all the essential facts. In *New Albany v. Dalton*, 166 N.E.2d.1132; The court ruled "an unsworn complaint [as in this case] is void, and any resulting conviction would be void. If a conviction under these conditions is too stand, it denies the defendant due process of law under the 14th amendment of the U.S. Constitution, and Article 1, Section 10, of the Ohio Constitution.



Failure to present properly sworn affidavit is defect that deprives court of subject matter jurisdiction and "cannot" be waived by defendant, Rules Crim. Proc. Rule 12.

#### ISSUE ONE

On the question of subject matter jurisdiction filed and stamped by the Hamilton county clerk of courts for the first time on Sept. 2, 2003, under §2953.21 [new and discovered evidence]. The appearance docket of case no. B-9702196 of 11/28/03 shows petition under §2953.21 was filed on 9/09/03 and denied on 9/29/03 without providing service to appellant. [Appearance docket of 11/28/03 is attached]. On 10/27/03 the appellant in writing requested a copy of appearance docket for case no. B-9702196, this written request was not stamped received till Nov. 4, 2003 at 10:58 a.m. [see attached request]. Appellant did not receive requested appearance docket though his institutional legal mail system till Dec. 3, 2003 [see attached envelope]. The trial court nor the Hamilton county clerk of court "strictly" complied with Ohio Criminal Rule 5(a), or Civil Rule 58(B) "Post-Card notice" service should have been provided to Appellant to assure timely appeal, without such notice/service, Appellant was deliberately denied the right to file a timely appeal of the trial court's denial of 9/29/03. Notice/service should have been provided Appellant timely; *Miamisburg Motel v. Huntington Natl. Bank*, 623 N.E.2d.172, (Ohio App.2 Dist.1993), without such notice/service Appellant was denied "due process of law" cause Appellant alleges that his arrest, trial, conviction and sentence were "unlawful" thus Appellant's continue imprisonment is "unlawful" for the following reasons; (1) Appellant was "not" properly informed of the charges against him, (2) Without a proper complaint and affidavit, municipal court and Hamilton county common pleas courts were without proper jurisdiction of the subject matter, and such conviction and imprisonment is in strict violation of the Ohio Constitution, Article 1, Section 10.

#### ISSUE TWO

IN THE COURT OF COMMON PLEAS  
HAMILTON COUNTY, OHIO

STATE OF OHIO  
Plaintiff-Appellee

C030948

vs.

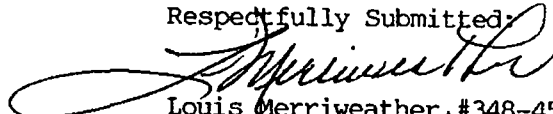
LOUIS MERRIWEATHER;  
Defendant-Appellant;

CASE NO. B-9702196

NOTICE OF APPEAL

Notice is hereby given that Louis Merriweather, defendant-Appellant, hereby appeals to the court of Appeals of Hamilton County, Ohio, First Appellate District, from final judgment entered in this present action on the 29th day of Sept. 2003.


Respectfully Submitted:



Louis Merriweather, #348-451  
P.O. box 5500  
Chillicothe, Ohio 45601-0990

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing notice of appeal was forward to the Hamilton County Clerk of court at 1000 Main St. Cincinnati, Ohio 45202 on this 17<sup>th</sup> day of Dec. 2003



Louis Merriweather

**FILED**  
**COURT OF APPEALS**

DEC 24 2003

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

IN THE COURT OF APPEALS

FIRST APPELLATE DISTRICT OF OHIO

STATE OF OHIO-PALINTIFF-APPELLE

LOUIS MERRIWEATHER-DEFENDANT-APPELLANT

**FILED**  
**COURT OF APPEALS**

DEC 26 2003

GREGORY HARTMANN  
CLERK OF COURTS  
HAMILTON COUNTY

TRIAL COURT NO.B-9 7 0 2 1 9 6

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO**

**TABLE OF CONTENTS AND ASSIGNMENTS OF ERRORS**

NOTICE OF APPEAL COMMON PLEAS	PAGE-3
NOTICE FOR LEAVE TO FILE DELAYED APPEAL	-4
CERTIFICATE OF SERVICE	-4
MEMORANDUM IN SUPPORT	-5
FACTS	-5
O.R.C. §2953.21, AND §2935.05	-5
CRIMINAL RULE OF PROCEDURE 4(E)(2)	-5
CRIM.R.4(E)(2)	-6
CITY OF CLEVELAND V.WEAVER, 10 MISC.(2D)15,461 N.E.2D.32(MUNI.CLEVELAND 1983)	-6
CITY OF NEW ALBANY V.DALTON, 104 App.(2D), 307,661 N.E.2D.1132(FRANKLIN 1995)	-6
STATE V.VILLAGOMEZ, 44 App.(2D)209,211,337 N.E.2D.167	-6
STATE V.MILLER, 547 N.E.2D.399 HAMILTON COUNTY 1988)	-6
NO COMPLAINT OR IMPROPER COMPLAINT	-7
EUCLID V.SAMARTINI, (M.C.1965), 5 OHIO MISC.38,31 O.O.2D.87,204 N.E.2D.425	-7
OHIO CONSTITUTION	-7
STATE V.LINDWAY, (1936), 131 OHIO ST.166,2 N.E.2D.490, (CERT DEN.) 299 U.S.506,57, S.CT.36,81 L.ED.375	-7
HOLT V.STATE, (1923), 107 OHIO ST.307,140 N.E.2D.349	-7
STATE V.VILLAGOMEZ, (1974), 44 OHIO App.209,337 N.E.2D.167	-7
CITY OF TOLEDO V.KOHLHOFER, (1954), 96 OHIO App.355,122 N.E.2d.20	-7
SCHROEDER-KATZ, OHIO CRIMINAL LAW VOL.2.CRIM.R.3, AUTHOR'S TEXT'S P.126	-7
COMPLAINT SWORN AND UNSWORN	-7
NEW ALBANY V.DALTON, 166 N.E.2D.1132	-7
ASSIGNMENT OF ERROR ONE	-8
FAILURE TO PROVIDE SERVICE CIVIL R. 5(a) and 58(B)	-8
MIAMISBURG MOTEL V.HUNTINGTON NATL.BANK, 623 N.E.2D.172(OHIO App.2 DISTRICT 1993)	-8
ASSIGNMENT OF ERROR TWO	-8
PRIOR JUDICIAL NOTICE OF FAILURE TO COMPLY WITH CIVIL R.5(a)& 58(B)	-9

2 of 2

OHIO CRIM.RULES OF PRACTICE & PROCEDURE (2 ED.1989)29,SECTION 7.101	-9
OHIO JURISPRUDENCE 3D.(1981)491,CRIM.LAW,SECTION 729	-9
CITY OF CINCINNATI V.GARDNER,580 N.E.2D.545	-9
<b>SUBJECT MATTER JURISDICTION</b>	-10
FOX V.EATON CORP.(1976),48 OHIO ST.2D.236,238,2 O.O.3D.408,409,358 N.E.2D.536,537	-10
<b>CONCLUSION</b>	-11
<b>LAW OF CASE DOCTRINE</b>	-11
STATE EX.REL.SHARIF V.MCDONNELL,741 N.E.2D.127 OHIO	-11
CERTIFICATE OF SERVICE	-11
AFFIDAVIT	-12
AFFIDAVIT OF INDIGENCY	-13

**EXHIBITS**

A-REQUEST FOR APPEARANCE DOCKET

B-REQUEST ANSWERED BY HAMILTON COUNTY CLERK OF COURT'S

C-ENVELOPE POST MARKED DEC.1,2003

D-APPEARANCE DOCKET 11/28/03

E-APPEARANCE DOCKET.....8/14/03 WITH JUDICIAL NOTICE OF 5/15/03

///

2

IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO

STATE OF OHIO

Plaintiff/Appellee

v.

Louis Merriweather

Defendant/Appellant

APPEAL NO. \_\_\_\_\_

TRIAL NO. B-9702196

AFFIDAVIT OF INDIGENCY

State of Ohio

County of Hamilton

} ss

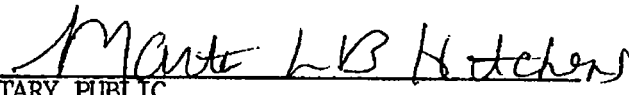
Louis Merriweather, the undersigned, being first duly sworn and cautioned, deposes and states as follows:

1. That he is the Defendant in the above styled case;
2. That he is a citizen of the State of Ohio;
3. That he is indigent and unable to pay the costs and charges involved in the within matter;
4. That he is entitled to the redress that is sought in the above styled action to the best of his knowledge and belief.

FURTHER AFFLIANT SAITH NAUGHT.

  
Louis Merriweather - Defendant/Appellant - Indigent

SWORN TO AND SUBSCRIBED BEFORE ME, A NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE THIS 9th DAY OF Dec., 2003

  
NOTARY PUBLIC

Maria L. B. Hitchens  
Notary, State of Ohio  
License No. 5239  
Commission Expires 3/3/2004

# Informal Complaint Resolution

Institution: *Ch. Williams*

Top section to be completed by inmate, within 14 days of incident.

Inmate will forward the White & Canary copies to the supervisor of the staff person or department most responsible for complaint. Forward Pink copy to the Inspector; and keep the Goldenrod copy.

Submitted To: <i>Hamilton County Common Pleas Clerk of Court</i>	Date Submitted: <i>10/27/03</i>
Inmate's Name: <i>LOUIS MERRINWATER</i>	Number: <i>348451</i>
	Housing Assignment: <i>B-3-113</i>

Complaint Regarding:

*Too Hamilton County Common Pleas  
Clerk of Court*

*Ref. Docket Statement For Trial No. B-9702196*

*① Please promptly forward to me a current  
docket statement of my case no. B-9702196*

GREGORY HARTMAN  
CLERK OF COURTS  
HAMIL

2003 NOV -4 A 10:53

FILED

*Respectfully Submitted  
Louis Merrinwater*

Lower Section to be completed by the supervisor of the staff person or department most responsible for complaint.  
Return Canary copy to inmate within 7 calendar days. Send White copy to the Inspector.

Action Taken (Cite appropriate policy, procedure or regulation in response):

*(A)*

Staff Member's Signature and Title:

Date:

Complaints not resolved may be addressed in accordance with 5120-9-31.





**HAMILTON COUNTY CLERK OF COURTS**  
**HAMILTON COUNTY COURTHOUSE**  
**COMMON PLEAS RECORDS DESK**  
**1000 MAIN STREET, ROOM 315**  
**CINCINNATI, OHIO 45202**

Person Requesting Records: Louis Meriwether Number: \_\_\_\_\_

Institution: \_\_\_\_\_ Date Request Received: \_\_\_\_\_

**(1.) WE HAVE FILLED THE FOLLOWING RECORDS REQUEST:**

Copy of Appearance Docket

**(2.) YOUR RECORDS REQUEST HAS BEEN ANSWERED BY:**

First Name of Deputy Clerk: Yvette Badge #: 0637

Telephone Number: (513) 946-5671 Fax Number: (513) 946-5670

Mailing Address: Hamilton County Courthouse  
1000 Main Street, Room 315  
Cincinnati, OH 45202

Date Request Answered: 12/1/2003 Answer Sent By: Yvette

(B)

**MANY OF THE RECORDS YOU ARE REQUESTING MAY BE**  
**AVAILABLE FREE-OF-CHARGE, 24 HOURS PER DAY ON**  
**OUR WEBSITE**  
**[www.courtclerk.org](http://www.courtclerk.org)**

GREGORY HARTMANN  
CLERK OF COURTS  
1000 MAIN ST - ROOM 315  
CINCINNATI, OH 45202-1206

12/04/03

5 Encl  
Copies

Mr. Davis Merrimack  
#348451  
P.O. Box 5500  
Merrimack, NH  
45601-0990



45601-0990 30



TODAY'S DATE: 11/28/2003

COMMON PLEAS DIVISION

PAGE 1

CASE: B 9702196

Criminal Appearance Report

CMSR5155

## A P P E A R A N C E D O C K E T

Attorney - Plaintiff

Attorney - Defendant JACK C RUBENSTEIN

6200

Cur Judge - ROBERT S KRAFT

15

STATE OF OHIO vs. LOUIS MERRIWEATHER

Total Deposits \$.00

Total Costs \$0.00

STATE OF OHIO

vs.

LOUIS MERRIWEATHER

213 BOSNICK AV

CINTI

OH 45210

Municipal #: , , ,

Race: B Age: 49 Sex: M

Filed: 4/02/1997 0005 - WARRANT ON INDICTMENT

Count:1 Disposition:3DOC DEPARTMENT OF CORRECTIONS

Date: 6/18/1997

Count:2 Disposition:3DOC DEPARTMENT OF CORRECTIONS

Date: 6/18/1997

Count:3 Disposition:3DOC DEPARTMENT OF CORRECTIONS

Date: 6/18/1997

Count:4 Disposition:3DOC DEPARTMENT OF CORRECTIONS

Date: 6/18/1997

IMAGE	DATE	DESCRIPTION	AMOUNT
	4/02/1997	INDICTMENT REPORTED AND FILED.	
		INDICTMENT FOR	
		RAPE 2907.02A1b R.C. W/ SPEC. (4CNTS)	
	4/02/1997	PRECIPE FOR WARRANT FILED AND WARRANT	
		ISSUED.	
	4/03/1997	SIMON L. LEIS JR., SHERIFF: I HAVE IN	
		CUSTODY AND HAVE SERVED COPY OF	
		INDICTMENT ON	
		SAID DEFENDANT BY SNOWDEN, SR. DEPUTY	
230	4/10/1997	ORDER TO SEAL ENTRY	
110	4/11/1997	WAIVER OF PRESENCE OF DEFENDANT AT	
		ARRAIGNMENT	
		100,000	
	4/11/1997	COUNSEL ASSIGNED	
		DANIEL F BURKE JR	
159	4/24/1997	ENTRY OF CONTINUANCE	
		5/7/97	
40	4/25/1997	ORDER TO SEAL ENTRY	
	4/30/1997	WRITTEN REQUEST FOR BILL OF	
		PARTICULARS.	
	4/30/1997	DEFENDANT'S DEMAND FOR DISCOVERY.	
52	5/07/1997	ENTRY OF CONTINUANCE	
		5/15/97	
	5/14/1997	SUBPOENA FOR WITNESS RETURNED AND	
		ENDORSED	
		ERICA PARRISH	
	5/15/1997	SUBPOENA FOR WITNESS ISSUED TO	
		ERICA PARRISH	
124	5/15/1997	ENTRY WITHDRAWING PLEA OF NOT GUILTY	
		AND ENTERING PLEA OF GUILTY	
		CT 1 & 2 RAPE F-1 2907.02 DISMISS CT 3	
		& 4 & SEXUAL PREDATORS SPEC, CTS 3 & 4	
130	5/15/1997	ENTRY ON WAIVER OF TRIAL BY JURY.	
241	5/15/1997	ENTRY ORDERING PROBATION INVESTIGATION	
		AND REPORT.	
		CLINIC EVAL. REPORT ORDERED. REMANDED.	
		SENT SET 6/18/97	
19	5/16/1997	ENTRY APPOINTING COMMUNITY DIAGNOSTIC	
		AND TREATMENT CENTER FOR EXAMINATION	
65	6/18/1997	ENTRY ADJUDICATING OFFENDER AS A:	
		SEXUAL PREDATOR	

D-1

## HAMILTON COUNTY CLERK OF COURTS

TODAY'S DATE: 11/28/2003

COMMON PLERS DIVISION

PAGE 2

CASE: B 9702196

Criminal Appearance Report

CMSR5155

## A P P E A R A N C E D O C K E T

66 6/18/1997 ENTRY ORDERING PROCESSING OF OFFENDER  
225 6/18/1997 JUDGMENT ENTRY: INCARCERATION  
DOC 10YRS ON EACH CTS 1 & 2 CONCURR.  
TO EACH OTHER WITH CREDIT FROM 3/23/97  
THRU 6/18/97. REMANDED. PAY COURT  
COSTS. FOUND TO BE A SEXUAL PREDATOR

564 6/28/1997 ENTRY APPROVING COUNSEL FEES  
\$300  
5/06/1998 CRIMINAL STATE COSTS SATISFIED  
12/06/2000 MOTION  
FOR JUDICIAL RELEASE.

209 12/21/2000 ENTRY OVERRULING JUDICIAL RELEASE  
2/14/2001 AFFIDAVIT OF INDIGENCY  
2/14/2001 MOTION  
FOR PRODUCTION OF TRANSCRIPTS BY  
INDIGENT DEFENDANT.

3/08/2001 MOTION  
FOR APPOINTMENT OF COUNSEL.

3/08/2001 AFFIDAVIT OF INDIGENCY  
3/29/2001 NOTICE OF APPEAL FILED  
NO. C0100232 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR

3/29/2001 DOCKET STATEMENT FILED.  
B9702196

4/10/2001 MOTION TO DISMISS  
REQUEST FOR TRANSCRIPTS

135 4/26/2001 ENTRY GRANTING MOTION  
TO DISMISS REQUEST FOR TRANSCRIPTS

5/04/2001 ENTRY OF DISMISSAL  
05/04/01 IMAGE# 3  
C0100232  
\*\*COPY SENT TO DOC AND DEFENDANT ON  
05/21/01 RSR\*\*

6/14/2001 DOCKET STATEMENT FILED.  
C-010232

9/28/2001 NOTICE OF APPEAL FILED AND MOTION FOR  
DELAYED APPEAL  
NO. C0100638 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR

9/28/2001 DOCKET STATEMENT FILED.

10/01/2001 DOCKET STATEMENT FILED.  
C01000638

10/02/2001 DOCKET STATEMENT FILED.  
C-010638

11/02/2001 ENTRY OVERRULING MOTION FOR LEAVE TO  
APPEAL  
C0100638  
11/02/01 IMAGE# 4  
\*\*\*COPY SENT TO DOC AND DEFENDANT ON  
11/19/01 RSR\*\*\*

12/18/2001 NOTICE OF APPEAL OF APPELLANT L.  
MERRIWEATHER FILED IN THE SUPREME  
COURT OF OHIO ON 12/12/01, SC# 01-2152

2/19/2002 MOTION  
FOR JAIL TIME CREDIT PURSUANT TO  
O.R.C. #2967.191

252 3/04/2002 ENTRY GRANTING MOTION FOR JAIL TIME  
CREDIT

3/19/2002 COPY OF ENTRY DENYING LEAVE TO APPEAL  
AND DISMISSING APPEAL, FILED IN THE  
SUPREME COURT OF OHIO ON 03/04/02, SC  
# 01-2152

7/29/2002 MOTION  
TO SUSPEND INCARCERATION/JUDICIAL  
RELEASE O.R.C. 2929.20

8/23/2002 MOTION  
TO STAY FURTHER PROCEEDING OF #2929.20.

8/27/2002 MOTION  
FOR DECLARATORY RELIEF OF SENTENCING.

D-2

TODAY'S DATE: 11/28/2003  
CASE: B 9702196

COMMON PLEAS DIVISION  
Criminal Appearance Report

PAGE 3  
CMSR5155

## A P P E A R A N C E D O C K E T

10/08/2002 MOTION  
TO STRIKE FROM RECORDS  
11/22/2002 MOTION  
FOR RECUSAL OF SENTENCING JUDGE  
12/20/2002 MERRIWEATHER'S MOTION FOR  
POST-SENTENCE WITHDRAWAL OF GUILTY  
PLEAS.  
1/10/2003 FILING  
1/17/2003 MOTION  
TO AMEND POST-SENTENCE WITHDRAWAL OF  
GUILTY PLEAS.  
284 2/13/2003 ENTRY  
DENYING MOTION FOR POST SENTENCE  
WITHDRAWAL OF GUILTY PLEA  
285 2/13/2003 ENTRY.  
DENYING MOTION FOR RECUSAL OF  
SENTENCING JUDGE  
3/04/2003 MOTION  
TO SUSPEND FURTHER INCARCERATION UNDER  
JUDICIAL RELEASE O.R.C. #2929.20  
354 3/06/2003 ENTRY OVERRULING  
MOTION FOR JUDICIAL RELEASE  
4/09/2003 MOTION  
FOR EMERGENCY DECLARATORY JUDGMENT.  
4/09/2003 MOTION  
FOR EVIDENTIARY HEARING TO CORRECT  
MANIFEST INJUSTICE UNDER CRIM. R. 32.1  
234 4/11/2003 ENTRY DENYING:  
MOTIONS  
5/15/2003 JUDICIAL NOTICE.  
9/09/2003 MOTION  
FOR EVIDENTIARY HEARING PURSUANT TO  
R.C. #2953.22  
459 9/29/2003 ENTRY DENYING:  
MOTION

D-3

TODAY'S DATE: 8/14/2003  
CASE: B 9702196

HAMILTON COUNTY CLERK OF COURTS  
COMMON PLEAS DIVISION  
Criminal Appearance Report

PAGE 1  
CMSR5155

A P P E A R A N C E D O C K E T

Attorney - Plaintiff  
Attorney - Defendant JACK C RUBENSTEIN 6200  
Cur Judge - ROBERT S KRAFT 15

STATE OF OHIO vs. LOUIS MERRIWEATHER

Total Deposits \$ .00  
Total Costs \$0.00

STATE OF OHIO

vs.

LOUIS MERRIWEATHER  
13 BOSNICK AV  
INTI

Municipal #: , , ,

OH 45210

ace: B Age: 49 Sex: M

Filed: 4/02/1997 0005 - WARRANT ON INDICTMENT

Count:1	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:2	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:3	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997
Count:4	Disposition:3DOC DEPARTMENT OF CORRECTIONS	Date: 6/18/1997

IMAGE	DATE	DESCRIPTION	AMOUNT
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E-1

TODAY'S DATE: 8/14/2003  
CASE: B 9702196

HAMILTON COUNTY CLERK OF COURTS  
COMMON PLEAS DIVISION  
Criminal Appearance Report

PAGE 2  
CMSR5155

A P P E A R A N C E D O C K E T

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TO EACH OTHER WITH CREDIT FROM 3/23/97  
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\$300  
5/06/1998 CRIMINAL STATE COSTS SATISFIED  
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FOR APPOINTMENT OF COUNSEL.  
3/08/2001 AFFIDAVIT OF INDIGENCY  
3/29/2001 NOTICE OF APPEAL FILED  
NO. C0100232 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR  
3/29/2001 DOCKET STATEMENT FILED.  
B9702196  
4/10/2001 MOTION TO DISMISS  
REQUEST FOR TRANSCRIPTS

135 4/26/2001 ENTRY GRANTING MOTION  
TO DISMISS REQUEST FOR TRANSCRIPTS  
5/04/2001 ENTRY OF DISMISSAL  
05/04/01 IMAGE# 3  
C0100232  
\*\*COPY SENT TO DOC AND DEFENDANT ON  
05/21/01 RSR\*\*  
6/14/2001 DOCKET STATEMENT FILED.  
C-010232  
9/28/2001 NOTICE OF APPEAL FILED AND MOTION FOR  
DELAYED APPEAL  
NO.C0100638 COPY SENT TO HAMILTON  
COUNTY PROSECUTOR  
9/28/2001 DOCKET STATEMENT FILED.  
10/01/2001 DOCKET STATEMENT FILED.  
C01000638  
10/02/2001 DOCKET STATEMENT FILED.  
C-010638  
11/02/2001 ENTRY OVERRULING MOTION FOR LEAVE TO  
APPEAL  
C0100638  
11/02/01 IMAGE# 4  
\*\*\*COPY SENT TO DOC AND DEFENDANT ON  
11/19/01 RSR\*\*\*

12/18/2001 NOTICE OF APPEAL OF APPELLANT L.  
MERRIWEATHER FILED IN THE SUPREME  
COURT OF OHIO ON 12/12/01, SC# G1-2152

2/19/2002 MOTION  
FOR JAIL TIME CREDIT PURSUANT TO  
O.R.C. #2967.191

252 3/04/2002 ENTRY GRANTING MOTION FOR JAIL TIME  
CREDIT  
3/19/2002 COPY OF ENTRY DENYING LEAVE TO APPEAL  
AND DISMISSING APPEAL, FILED IN THE  
SUPREME COURT OF OHIO ON 03/04/02, SC  
# 01-2152  
7/29/2002 MOTION  
TO SUSPEND INCARCERATION/JUDICIAL  
RELEASE O.R.C. 2929.20  
8/23/2002 MOTION  
TO STAY FURTHER PROCEEDING OF #2929.20  
8/27/2002 MOTION  
FOR DECLARATORY RELIEF OF SENTENCING.  
10/08/2002 MOTION  
TO STRIKE FROM RECORDS

E-2



TODAY'S DATE: 8/14/2003

COMMON PLEAS DIVISION

PAGE 3

CASE:B 9702196

Criminal Appearance Report

CMSR5155

## A P P E A R A N C E D O C K E T

11/22/2002 MOTION  
FOR RECUSAL OF SENTENCING JUDGE

12/20/2002 MERRIWEATHER'S MOTION FOR  
POST-SENTENCE WITHDRAWAL OF GUILTY.  
PLEAS.

1/10/2003 FILING

1/17/2003 MOTION  
TO AMEND POST-SENTENCE WITHDRAWAL OF  
GUILTY PLEAS.

2/13/2003 ENTRY  
DENYING MOTION FOR POST SENTENCE  
WITHDRAWAL OF GUILTY PLEA

2/13/2003 ENTRY  
DENYING MOTION FOR RECUSAL OF  
SENTENCING JUDGE

3/04/2003 MOTION  
TO SUSPEND FURTHER INCARCERATION UNDER  
JUDICIAL RELEASE O.R.C. #2929.20

3/06/2003 ENTRY OVERRULING  
MOTION FOR JUDICIAL RELEASE

4/09/2003 MOTION  
FOR EMERGENCY DECLARATORY JUDGMENT.

4/09/2003 MOTION  
FOR EVIDENTIARY HEARING TO CORRECT  
MANIFEST INJUSTICE UNDER CRIM. R. 32.1

4/11/2003 ENTRY DENYING:  
MOTIONS

5/15/2003 JUDICIAL NOTICE.

E-3